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July 1, 2011

**VIA ECF**

Hon. Dennis M. Cavanaugh, U.S.D.J.  
Frank R. Lautenberg United States  
Post Office & Courthouse  
1 Federal Square, Room 451  
Newark, New Jersey 07102

Re: *In re Merck & Co., Inc. Vytarin/Zetia Securities Litigation*  
Civil Action No. 08-2177 (DMC) (JAD)

Dear Judge Cavanaugh:

This firm is co-counsel with Paul, Weiss, Rifkind, Wharton & Garrison LLP, and Lowenstein Sandler PC, for Defendant Merck & Co., Inc. ("Merck"), in the above-referenced case, in which the Lead Plaintiffs' motion for leave to file their First Amended Consolidated Complaint is pending before Your Honor.

Mindful of Local Civil Rule 7.1(d)(6)'s requirement that sur-replies be filed only with leave of Court, Defendants respectfully request that Your Honor consider the short letter annexed as Exhibit A, which is necessary because: (1) important new testimony was obtained in a deposition that took place too late to be included in Defendants' limited opposition to Lead Plaintiffs' motion (attached as Exhibit B), and (2) Lead Plaintiffs raised certain issues for the first time in their reply papers.

We thank the Court for its consideration of this matter.

Respectfully submitted,



William B. McGuire  
For TOMPKINS, McGUIRE, WACHENFELD & BARRY

cc: All Counsel (Via ECF)